HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. S/S No. 1072/ 2005
Bhawani Devi
Vs
State of Uttaranchal
Through Secretary Dehradun

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 10.3.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1072 (SS) OF 2005

Bhawani Devi,
W/o Sri Birender Singh,
R/o Village Barkinda, Tehsil Bhikiyasain, District Almora.
.....Petitioner

Versus

1. State of Uttaranchal, through Secretary Primary Education, Uttaranchal, Dehradun.
2. Upper Zila Shiksha Adhikari, Almora.
3. Ishwar Dutt Sharma, Head Teacher, Primary School, Barkinda, District Almora.
4. Anil Kumar Lakhchaura, S/o Ramesh Chandra, Primary School Barkinda, Tehsil Bhikiyasen, District Almora.

.....Respondents.

Mrs. Pushpa Joshi, Advocate for the petitioner.
Learned Standing Counsel for the State.
Ms. Prabha Noliyal, Advocate for the respondent no.4.

Dated: 10.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to give joining to the petitioner as Shiksha Mitra in Primary School, Barkinda, Block Salt, District Almora, which she had held prior to her going on leave.

2. Briefly stated, according to the case of the petitioner, he was appointed in the year, 2002 as a Shiksha Mitra in Primary School, Barkinda, Block Salt, Distrit Almora and was working as a Shiksha Mitra since then. The petitioner attained her training for one month i.e. from 30.03.2002 till 28.04.2002. The petitioner was regularly teaching as a Shiksha Mitra in the same Primary School and was regularized on the same post.

3. The petitioner was working continuously and teaching in the school up to 02.07.2005. On 3rd of July, 2005, she gave birth to a child and she sent an application for leave from 03.07.2005 till 20.07.2005.

4. Respondent no. 3 returned the application of the petitioner to her husband with a note that on 31st May, the tenure of Shiksha Mitra has automatically come to an end and as such the Gram Shiksha Samiti is not empowered to extend the period of the petitioner as Shiksha Mitra.

5. Petitioner has submitted that on 09.07.2005, one Sri Anil Kumar, S/o Ramesh Chandra, R/o Village Dhoora, Tehsil Bhikiyasain, District Almora was appointed as Shiksha Mitra in place of the petitioner in the same school.

6. Thereafter being aggrieved by the said action of the respondents, the petitioner preferred a representation before the respondent no.2 on 18.07.2005, which was duly received by the office of respondent no.2 on the same day.

7. On the very same day i.e. on 18.07.2005, the respondent no.2 sent a letter to the respondent no.3 and inquired about the appointment of another Shiksha Mitra in place of the petitioner and informed that he was not empowered to appoint a new Shiksha Mitra. A copy of this letter was also sent to the petitioner by the office of the respondent no.2.

8. After receiving the aforesaid letter, the petitioner went to respondent no.3 and asked for her joining on 21.07.2005, but he refused to give joining to the petitioner.

9. Learned counsel for the petitioner has submitted that the appointment of one Sri Anil Kumar is arbitrary and against rules as the petitioner is a poor lady having no other source of earning and her husband is unemployed.

10. Learned counsel for the petitioner has further submitted that after her dismissal from the service, she has come on the verge of starvation as she has no other source of income and the action of the respondents in not giving the joining to the petitioner has created great hardship, irreparable loss and injury to the petitioner.

11. In the counter affidavit filed by the respondent no. 4, it has been stated that the petitioner has filed the writ petition by concealing the fact the petitioner has obtained the interim order dated 30.07.2005 in her favour. In compliance to the interim order passed by this Hon'ble Court, the petitioner has been reinstated in her service, but the she is not taking interest in imparting education amongst the students, consequently, the Gram Shiksha Samiti (hereinafter referred to as Samiti) held a meeting and decided to permit the petitioner to continue on the post of Shiksha Mitra till the interim order is operative. Relevant paragraph is quoted below:-

"3. *That the petitioner has filed present writ petition and by concealing some facts, the petitioner has obtained theitnerim order dated 30.07.2005 in her favour. In compliance to the interim order passed by this Hon'ble Court the petitioner has been reinstated in her services. Petitioner is misusing the interim order passed by this Hon'ble Court and she is not taking interest to impart the education amongst the students, consequently, the Gram Shiksha Samiti (hereinafter referred to as Samiti) held a meeting and decided to permit the petitioner to continue on the post of Shiksha Mitra till the interim order is operative. It is categorically stated in the resolution of the meeting that petitioner's appointment was not recommended, and hence, her appointment is irregular. The work and conduct of the petitioner, is not satisfactory. In this regard, Principal of the Institution i.e. respondent no. 3 as well as so many parents have also written a letters dated 10.08.2005 and 18.08.2005 to Additional Director of Education, (Basic), Almora respectively to withdraw the petitioner as Shiksha Mitra.*"

12. In the counter affidavit filed by the respondent no.3, it has been stated as under:-

"4. That Shiksha Mitra is appointed under the shcem3e of Shiksha Mitra Yojana implemented by Addl. Director of Education under Human Resources Department, under the scheme the school were selected which were very far from inaccessible places. The Gram Panchayat Shiksha Samiti had full rights to select Shiksha Mitra to teach the students were candidates are not available in the same village than the candidate will be selected from the nearby villages. The candidates will be given preferences who have done B.T.C., B.Ed, L.T. in comparison to others and the tenuire of the Shiksha Mitra will come to an end automatically in the last dau of the session i.e. May. The Shiksha Mitra will be paid by Gram Shiksha Nidhi. The minimum are limit will be 18 tears and maximum 30 years afterwards the maximum age limit was deferred. The Shiksha Mitra scheme is for temporary arrangement, it will not be made a plot form for regularization."

13. The grievance of the petitioner is that he has filed a representation regarding her grievances, but the same has not yet been decided.

14. In view of the above, the respondent no.2 is directed to decide the representation of the petitioner-dated 18.07.2005 (Annexure No. 6) within a period of two months from the date of presentation of the certified copy of the order. If the petitioner is already working, she shall continue till the disposal of the representation.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

10.03.2006
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